Citizenship à la Carte

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By David Fitzgerald

Every immigrant is also an emigrant, and for every country of destination, there is a country of origin. The relationship between the governments of countries of origin and their citizens abroad has taken on renewed interest in recent years among migrants, sending country politicians, and scholars concerned with understanding those changing relationships, their origins, and effects. This paper draws primarily on the Mexican case to argue that emigrants and the governments of their countries of origin are negotiating a new form of citizenship, which I call citizenship à la carte, based on greater voluntarism, a greater emphasis on citizen rights over obligations, and the legitimacy of multiple affiliations.

This model of membership is both a response to globalization—in the sense of the intensive and extensive commercial, ideological, and migratory contacts across borders that have characterized the turn of the last two centuries—and an expression of the way that globalization is reconfiguring political relationships. Below, I sketch the possibilities and the limits for the reconfigured ties between migrants and their countries of origin to alter the principles that have organized the modern political system of nation-states.

BREAKING THE TERRITORIAL PRINCIPAL?

People, goods, and ideas are on the move. Many scholars surveying the speed and volume of these movements across international lines have argued that a new era of globalization is upon us. According to this view, the quantitative changes are so intense that a qualitative shift has taken place in, among other areas, the fundamental political organization of the planet. According to this view, “globalization breaks the territorial principle, the nexus between power and place.” Transnational corporations move their operations and assets around the world to avoid taxes and force concessions from national governments. International treaties and transnational norms progressively constrain the authority of states to act as they please within their borders. Committing “crimes against humanity” like genocide, even against one’s own citizens, has become grounds for legitimate intervention by other states. The European Union is the premiere example of the upward shifting of sovereignty to a supranational scale in areas as diverse as banking, environmental regulation, and immigration policies, all of which were formerly the exclusive competence of the nation-state. The EU allows free migration within its boundaries for nationals of member states and has increasingly shaped their immigration and asylum policies towards nationals of non-EU countries. Sociologists like Yasemin Soysal argue that immigrants enjoy universal rights of personhood that

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1 Castles and Davidson 2000:6.
2 Held and McGrew 2000: ch 1; Geddes 2003. Within the EU, restrictions on the movement of nationals of the eight countries that joined the EU in May 2004 vary among the 15 other member states. These barriers must be dropped altogether by 2011 (Migration News 2007).
minimize the importance of national citizenship for enjoying human and civil rights, and even the welfare benefits of social rights.\(^3\) Based on research conducted around the world, migration experts like Douglas Massey call international migration inevitable, and, in a 2004 survey of 11 countries, Wayne Cornelius highlights the growing gap between the intent of immigration control policies and their failures in practice.\(^4\) Surveying all these changes, the social theorist Saskia Sassen concludes that national governments are “losing control” over the flows of goods, ideas, and people across their borders.\(^5\)

Scholars of migrant “transnationalism” share the globalists’ goal of understanding broken linkages between territory and polity. Transnationalists call for a reconceptualization of terms like community, citizenship, and the nation-state. For them, “deteriorialization” signifies the uncoupling of residence in a territory with membership in a community and the displacement of culture from geography. Numerous observers argue that international migrants and the governments of their countries of origin are primary agents of deteriorialization. According to this perspective, countries of emigration are becoming “deteriorialized nation-states” as citizens abroad are incorporated by their homelands.\(^6\) In short, globalists and transnationalists contend that the undermining of the nation-state’s sovereignty, the decline in its capacity to control flows across its border, and the deteriorialization of the nation-state through emigration reveal dramatic transformations in the territoriality of political power.

Skeptics of globalization argue that the exclusive link between territory and political power is actually at its historical apex. The international system defined by the territoriality and autonomy of each nation-state is conventionally dated to the 1648 Treaty of Westphalia that ended Europe’s Thirty Years War. But the Westphalian system was not fully institutionalized until the twentieth century with the end of European colonialism and the collapse of the Soviet empire. The political map of the world looked more like the Westphalian ideal-type at the turn of the millennium than ever before. The supranational institutions of the EU are the exceptions that prove the national rule everywhere else. Organizations like the United Nations and World Trade Organization are formed by sovereign states, which are voluntary signatories to the treaties that then constrain their policies. To be sure, transnational corporations operate across the borders of nation-states, but the vast majority of them are headquartered in a handful of rich countries that continue to exercise significant authority over their operations. The political and economic power of these same states undergirds the institutions governing international trade. When it comes to international migration and territoriality, there is much talk about states losing control over their borders, but in general, states are establishing a semblance of control for the first time. Unlike the open immigration of the

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\(^3\) Soysal 1994; Jacobson 1996.
\(^5\) Sassen (1998:5) interprets loss of state control over cross-border movements as a loss of sovereignty. I restrict my use of sovereignty to the Westphalian sense of each state’s autonomy from the others and will discuss the state’s variable ability to control cross-border movements of people as one aspect of “state capacity,” or the ability of government to enforce its policies.
\(^6\) On deteriorialization, see Basch et al. (1994); Jacobson (1996:126); Laguerre (1998) and Sherman (1999). For a critique of the transnationalism literature, see Waldinger and Fitzgerald (2004) and a response by Levitt and Glick Schiller (2006).
nineteenth century, immigration since World War I has become restricted by an unprecedented system of state control.  

As far as emigration is concerned, the major flaw in the notion of a “deterritorialized” world is its assumption that political life was entirely territorialized at an earlier point. There is nothing new about states recognizing the legal nationality of large numbers of citizens abroad. Major European countries of emigration in the nineteenth and twentieth centuries vigorously maintained legal claims on their overseas nationals.  

At the level of cultural nationhood, the imagined inclusion of co-ethnic in the diaspora traces back even further to the Jews and Greeks of antiquity. Making the comparative points of reference more explicit clarifies changes in the relationships between a group of citizens, a government, and a place. The reference point may be an ideal-type like the Westphalian system, historical practices in a particular migration circuit, or the world-historical stage.

Consider the idea of a “deterritorialized nation.” Historically, definitions of legal nationality and cultural nationhood based on birth in a state’s territory have been particularly important in Latin America and the Caribbean. These formations are a legacy of the extreme ethnoracial heterogeneity of populations living within countries whose borders were based on the arbitrary administrative divisions of colonialism. Within Latin America and the Caribbean, then, some countries’ recent claims to include large numbers of emigrants in the imagined nation represents a shift away from a primarily territorial definition of nationhood.  

In Haiti, the government began making the novel claim in the 1990s that the nation includes a “tenth department” of Haitians living abroad, in addition to members of the nine geographic departments within Haiti. It is fascinating to discover changes in claims about a nation’s composition, with all of its attendant political consequences, while still recognizing antecedents in other settings. The contemporary Haitian case evokes the late nineteenth century notion of Polonia, the corporate body of Poles in the United States, which claimed to be the “fourth province of Poland.”

Drawing on theoretical debates in cultural geography and sociology, Neil Brenner argues that while the concept of deterritorialization usefully draws attention to historical changes in the implication of territory in organizing political life, its suggestion of the demise of territoriality eliminates, a priori, an understanding of how the territoriality of the state is being reconfigured rather than eliminated. The international relations theorist John Ruggie advances the concept of “unbundled territoriality” to describe how rulers deal with the trans-territorial aspects of the relationships between states by voluntarily withdrawing some of their exclusive territorial claims. He points to territorial unbundling in arrangements like the legal fiction that embassies are islands of extraterritorial sovereignty within a sovereign nation-state. The French embassy in London is governed by French law as if it were a small piece of France inside the United Kingdom. The existence of sovereign embassies does not imply that the nation-state has become deterritorialized. On the contrary, embassies uphold the territoriality of the

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9 See A. Smith (1990:11) on ethnic versus territorial nationhood in Latin America generally and Fitzgerald (2005) on Mexico specifically.
10 See Basch et al. (1994:1) on Haiti and Shain (1999:55) on Poland.
nation-state system more generally by carving out carefully defined exceptions to the general rule of sovereignty over a broad geographic area.¹²

STATES AND EMIGRANTS

Attempts by sending states to embrace their emigrants unbundle the territoriality of those polities by including members abroad as critical actors in the state’s political, legal, and economic arenas. Yet, the inclusion of emigrants is only partial because of the on-going endurance of legal territorial sovereignty. Sending states cannot act towards emigrants as they would towards resident citizens because the former are within the borders of another state. Efforts at emigrant inclusion, like extending the right to vote en absentia, have created a distinct form of extraterritorial citizenship precisely because the territoriality of the nation-state system prevents the functioning of “normal” residential citizenship. The demographic weight of the absent population and its control over economic and political resources coveted at home turn extraterritorial citizenship from a trivial curiosity into a cornerstone of that particular nation-state. The ensuing attempts to manage the perils and promises of emigration reveal important changes, but also the limits to change, in how governments exercise power over citizens and territories.

The territoriality of political power is being reconfigured through the embrace of citizens abroad—a condition I have called emigrant citizenship (or extra-territorial citizenship when extended more broadly to include the ancestral citizenship of emigrants’ descendents). While resident citizens can make only narrow choices about the share of their resources they are willing to exchange for benefits from a monopolistic state, emigrants have more choices. Emigrants can take their business elsewhere and vote with their feet, giving them leverage to demand new terms of exchange with the state. The leviathan becomes a supplicant. Consequently, emigrants and the governments of their countries of origin are negotiating citizenship à la carte based on voluntarism, citizen rights over obligations, and multiple affiliations.

VOLUNTARY TIES

The first way that the tie between emigrants and the home state is changing is the institutionalization of a more volunteraristic relationship between the two. The capacity of a state to make its citizens fulfill duties like conscription is severely restricted once those citizens leave the country. The Westphalian system of territorial sovereignty both enables the state’s range of action in its own territory and sharply limits its ability to project political power beyond its borders. Some emigrants may voluntarily return to their countries of origin to perform the duties of citizenship or send their “voluntary taxes” from abroad, as in the exceptional case of overseas Eritreans in the 1990s, but these are tenuous arrangements. The system of sovereign states remains so robust that sending-country governments must rely on the coercive intervention of the government of the country of immigration, penalize emigrants’ families or take their property left behind, rely on emigrants’ voluntary cooperation, or wait until emigrants return home where they

¹² Ruggie 1993:165.
are once again available to the state’s direct embrace.\textsuperscript{13}

None of this is to claim that coercion is the daily mode of state action anywhere. Even the most totalitarian states find that the constant use of force is expensive and ineffective. State building works much more efficiently with the exercise of ideological power, in which citizens are instilled with the \textit{habitus} of yielding themselves and their resources without resistance. The ultimate triumph of the state’s ideological power is when citizens not only accept taxation, conscription, and constant regulation, but even grow to see these activities as moral obligations. To borrow from Michael Mann, states wield the ideological power derived from deploying symbols as well as the political power of centralized regulation over a specific territory.\textsuperscript{14} Resident citizenship differs fundamentally from emigrant citizenship because the state can much more easily coerce resident citizens to enforce compliance when ideological power is insufficient. Within Mexico’s territory, the state wields power over its population in both a political and ideological mode, but when part of the flock strays from the territory, ideological power is a more effective mode of embracing them.

The ongoing salience of territorial sovereignty has forced the state to find creative ways to embrace emigrants outside the territory. The result has been to create a much more voluntaristic and limited form of citizenship tying emigrants to their home countries, where the government seeks remittances in exchange for the mostly ideological rewards of proclaiming emigrants their heroic absent sons and daughters. For example, in countries like Mexico, hometown associations created by migrants from the same town of origin now living in the United States can negotiate the terms of their cooperation with the Mexican government. These associations institutionalize ties between the Mexican state and its emigrants. The government, at all levels, uses the associations to make symbolic appeals to hometown ties and tap migrants’ economic resources and political support, but migrants only participate voluntarily when it serves their own interests as well.

**PLURAL NATIONALITY**

Historically, plural nationality has been anathema to governments. The nation-state is based on a political philosophy in which each nation has one state, and each individual belongs to only one nation. During the heyday of the model of “perpetual allegiance” in the mid-nineteenth century, national loyalties were expected to be enduring and exclusive. One of the proximate causes of the War of 1812 was British impressment of British subjects, who had become naturalized U.S. citizens, into the Royal navy. The United States did not resolve this issue with many European source countries until the series of bilateral Bancroft treaties in the 1860s and ’70s. The U.S. experience was hardly exceptional. The Italian government vehemently protested Brazil’s 1891 constitution that automatically naturalized resident foreigners and Rome even tried to cut off emigration in response. The principle of exclusive nationality was codified in the 1930 \textit{Hague Convention concerning Certain Questions relating to the Conflict of Nationality and}

\textsuperscript{13} See Barry 2006.
\textsuperscript{14} Mann 1993:7-9.
reaffirmed in international agreements like the 1963 Convention on Reduction of Cases of Multiple Nationality. Germany’s constitutional court in 1974 called multiple nationality “an evil that should be avoided or eliminated in the interests of states as well as in the interests of the affected citizen...States seek to achieve exclusivity of their respective nationalities in order to set clear boundaries for their sovereignty over persons.”

The acceptance of dual nationality has become a policy tool of countries of emigration trying to maintain claims on emigrants and their economic and political resources in host countries. In Latin America, only four countries accepted dual nationality before 1991, but six more recognized it in the following six years. Countries of emigration like Turkey, India, the Dominican Republic, Brazil, and El Salvador now promote dual nationality among emigrants and even their descendents abroad. In Mexico, the abrupt shift from a 1993 law affirming that nationality should be singular to the 1997 law recognizing dual nationality was one of the primary strategies for the state to embrace emigrant Mexicans. Of course, many countries have recognized some form of dual nationality for generations. As early as 1912, the Italian government accepted the reality of mobile Italians’ plural ties as a practical concession to maintain some kind of state-emigrant relationship, but it did not encourage emigrants to adopt dual ties. The novelty of contemporary emigrant citizenship lies in the strengthening of emigrant rights in particular countries, the global scale of the acceptance of dual nationality, and source country governments’ active promotion of dual nationality.

**RIGHTS OVER OBLIGATIONS**

Emigrant citizenship is based on the notion dating back to Roman times that citizenship is a right that is “owned.” Citizens are owed protection by their community, and the right to be protected can be transported. The legal scholar Kim Barry rightly points out that according to the logic of international law, intervention by states of origin to protect citizens abroad “is not a right of the citizen abroad, but rather is a prerogative of that citizen’s state,” because “the state has been injured via the alleged harm to its citizen and is asserting its own right by protecting its citizens.” Yet public discourse and even some constitutional law imply an emigrant’s right to protection by the home state. For example, in a passage that enshrines its labor-export policy in constitutional law, the 1987 Philippines constitution specifies, “The State shall afford full protection to labor, local and overseas...” The 1978 Spanish constitution stipulates, “The state shall pay special attention to safeguarding the economic and social rights of Spanish workers abroad...” Moreover, both the right to exit one’s country of citizenship and the right to return to it are enshrined in international law. While countries of emigration are obliged to let returnees back in, citizens have a recognized human right to leave their countries of

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18 Fitzgerald 2006b.
origin and, in many cases, renounce their nationalities. Westphalian sovereignty creates a structural imbalance, favoring the rights owned by emigrants over their obligations.

In a context of international migration, there is a double disjuncture between the Aristotelian principle that the ruled should be the rulers. Most attention has focused on the problem of non-citizen residents without a voice in ruling the state that rules them because they live in its territory. From the perspective of extra-territorial citizenship, there is a second philosophical problem. To the extent that emigrants are among the rulers of their homeland, they make rules to which they are not directly subject. Resident citizens must face the consequences of emigrant actions in a more direct way than emigrants, whose escape from the state’s embrace inherently tilts the balance of rights and duties towards the former. Emigrants can enjoy the substance of their homeland citizenship à la carte from a menu of rights and obligations, whereas residents must take the rights and obligations together at a relatively fixed price. Communitarians following the political philosophy of Rousseau have long complained that citizenship is generally tilted too far away from collective obligations. This tilt becomes even more pronounced in the state’s social contract with emigrants.

The disjuncture between rights and obligations is most extreme when citizens migrate to a country where they receive substantial benefits of denizenship even if they are not full members. Many migrants to the Global North enjoy more substantive benefits and protections from destination country governments than they did in their countries of origin. Emigrants in such settings are better able to parlay their absence into a negotiation with the government of the country of origin for greater emigrant rights. The possibilities of citizenship à la carte are expanded when immigrant integration policies promote ideologies of cultural pluralism that translate easily into the legitimacy of holding dual ties. Class also patterns the extent to which citizenship is flexible. Professionals and entrepreneurs are best positioned to use their high levels of human and social capital to take out multiple citizenships as an “insurance policy” in case conditions deteriorate in a given country. On the other hand, migrants from a country that provides meager resources to its citizens, who then move to a country that provides meager resources and protections to non-citizens, may end up with practically no protection at all. Migrants like Filipina maids in the Persian Gulf abused by their employers may hold a passport but are effectively stateless in terms of the substantive practice of citizenship. Unauthorized immigrants are less able to parlay their absence into a new bargain with their home state than immigrants who can entertain the possibility of dual nationality and full integration in the host. This sets limits on the voluntary quality of emigrant citizenship for the 54 percent of the Mexican immigrant population without papers in the United States. Authorized immigrants who cannot naturalize in the United States, like the 374,000 Central Americans under a tenuous “Temporary Protected Status” issued by the U.S. government after natural disasters at home in 1998 and 2001,

22 Hammar 1989.
24 See Brand 2006 and Østergaard-Nielsen 2003
26 See Oishi 2005.
are in a similar bind.\textsuperscript{27}

**AN ENDURING FORM OF CITIZENSHIP?**

The policies of many migrant-sending countries are converging towards this more voluntaristic and pluralistic model of emigrant citizenship. These shifts have not been driven by the impending demise of the nation-state system, as some globalist and transnationalist scholars have argued. Rather, new forms of citizenship and strategies for embracing emigrants are the product of an international system that limits the reach of states outside their territory to the politics of symbolism and soft cultural nationalism.

How long can citizenship à la carte be maintained? History gives some surprising answers. Close to a quarter-million second- and third-generation Brazilians of Japanese descent have successfully drawn on their ancestry to gain preferential access to a Japanese labor market that formally has been all but closed to immigration. From 1988 to 1997, 2.2 million ethnic Germans from formerly Communist countries like Kazakhstan were given preferential access to Germany and substantial resettlement benefits. Many of these “resettlers” had only remote ancestral ties to Germany. As many as a quarter-million Israelis, either refugees of the Holocaust or descendents of such refugees, have acquired German nationality. Once Poland became a member of the European Union, some Israelis began applying for the Polish nationality of their parents as well. These “rediscovered” Poles and Germans followed an example set by Argentines of Italian and Spanish ancestry at the turn of the twenty-first century, who drew on generous *jus sanguinis* provisions to escape the economic misfortunes of Argentina for the benefit of living in the European Union. As the sociologist David Cook has argued, the lagged importance of emigrant citizenship would have been impossible to predict at the moment of migration, particularly in the case of the migration circuit between Southern Europe and Argentina, where the relative economic fortunes of the countries of origin and destination flipped between 1960 and the mid-1970s.\textsuperscript{28} The long-term salience of emigrant citizenship is sensitive to economic and political conditions in both source and destination countries. Relationships between emigration and nation-building beg to be understood not only for their effects in contemporary countries of origin and destination, but also because the descendants of today’s emigrants may return to their ancestral homeland tomorrow.

In general, though, the voluntaristic quality of emigrant citizenship is a structural limit to its endurance over time and generation abroad. Resident citizenship is reproduced ascriptively as an accident of birth while ties to emigrants and their descendents tend to fade away. When it comes to Latin American immigration to the United States, there is no reason to expect a massive return of migrants or their descendents. Mexicans in the United States have shown minimal interest in acquiring dual nationality, and on the whole, identification with Mexico decreases with length of residence in the United States

\textsuperscript{27} The immigration figures are drawn from Passel 2004.

\textsuperscript{28} See Tsuda 2003 on Japan; Joppke 2005 on Germany; Segev 2005 on Israel; and Cook 2006 on Argentina.
and between the first and subsequent generations. The substantive practices of emigrant citizenship for the people of Mexico and other Latin American countries may well be limited to the first generation. Given the massive size of those first generations of migrants, however, and the likelihood that they will continue to be replenished in large numbers for the foreseeable future, emigrant citizenship will continue to be a theoretically and politically significant arena.

REFERENCES


An important exception to the pattern of decreasing interest in Mexican politics over time within the first generation is the fact that most Mexican civic hometown associations are led by long-time residents of the United States. Survey evidence from Salvadorans, Dominicans, and Colombians in the United States suggests the same holds true for a core of transborder activists in those cases. See de la Garza & DeSipio (1998) on Mexicans; Guarnizo, Portes, and Haller (2003) on Salvadorans, Dominicans, and Colombians; and Portes, Escobar, and Radford (2007) on Colombian, Dominican, and Mexican immigrant “transnational” associations.


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